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OFFICE OF PETITIONS

In re Application of
Needleman, et al.
Application No. 08/934,367
Filed: September 19, 1997
Attorney Docket No. 61765.00366

ON PETITION

This is a decision on the petition filed on July 23, 2002, pursuant to 37 CFR 1.137(b), to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply to the final Office action mailed October 23, 2001. This Office action set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on January 24, 2002. The mailing of this decision precedes the mailing of a Notice of Abandonment.

With the instant petition, petitioner paid the petition fee, made a statement of unintentional delay, and filed a Notice of Appeal (with fee) in response to the final Office action.

It is not apparent whether the person signing the statement of unintentional delay was in a position to have firsthand or direct knowledge of the facts and circumstances of the delay at issue. Nevertheless, such statement is being treated as having been made as the result of a reasonable inquiry into the facts and circumstances of such delay. In the event that such an inquiry has not been made, petitioner must make such an inquiry. If such inquiry results in the discovery that it is not correct that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional, petitioner must notify the Office.

There is no indication that the person signing the instant petition was ever given a power of attorney or authorization of agent to prosecute the above-identified application. If the person signing the instant petition desires to receive future

¹ See 37 CFR 10.18(b) and Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. 53131, 53178 (October 10, 1997), 1203 Off. Gaz. Pat. Office 63, 103 (October 21, 1997).

correspondence regarding this application, the appropriate power of attorney or authorization of agent must be submitted. While a courtesy copy of this decision is being mailed to the person signing the instant petition, all future correspondence will be directed to the address currently of record until such time as appropriate instructions are received to the contrary.

Pursuant to 37 CFR 1.136, an extension of time must be filed prior to the expiration of the maximum period obtainable for reply to avoid abandonment. Accordingly, since the \$920 extension of time fee submitted with the petition on July 23, 2002 was subsequent to the maximum period obtainable for reply (April 23, 2002), this fee has been refunded to Deposit Account No. 19-0733.

Please be advised that the two-month period for filing an appeal brief in triplicate (accompanied by the fee required by 37 CFR 1.17(c)) runs from the date of this decision.

The application file is being returned to Technology Center 1600 to await for petitioner's submission of the appeal brief.

Telephone inquiries specific to this decision should be directed to the undersigned at (703) 305-0272.



Cliff Congo
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for Patent Examination Policy

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